1300 Pennsylvania Avenue NW
Washington, DC 20229

U.S. Customs and Border Protection

June 29, 2018

MEMORANDUM FOR: Directors, Field Operations
Office of Field Operations

Director, Field Operations Academy
Office of Training and Development

FROM: Todd A. Hoffman (b) (6), (b) (7)(C)
Executive Director
Admissibility and Passenger Programs
Office of Field Operations

SUBJECT: Inspecting Inadmissible Family Units and Updates to (b) (7)(E) (b) (7)(E)

A recent audit of the inspection of Alien Family Units (FAMU), Unaccompanied Alien Children (UAC), and juvenile separation identified inconsistent application of policy for recording events generated in (b) (7)(E). Effective immediately, (b) (7)(E) has been updated to reflect additional options for processing alien family units to increase uniformity when processing adverse actions in CBP secondary.

Consistent with the Executive Order (EO) "Affording Congress An Opportunity to Address Family Separation" issued June 20, 2018, the preliminary injunction in *Ms. L v. ICE*, No. 18-848 (S.D. Cal.), and CBP National Standards on Transport, Escort, Detention, and Search (TEDS), U.S. Customs and Border Protection (CBP) Office of Field Operations (OFO) will maintain family unity and custody together to the greatest extent permitted by law and operational feasibility pending any criminal prosecution or immigration proceedings involving their members.

Alien Family Units (FAMU)

An Alien Family Unit is at least one alien child under the age of 18; at least one alien parent or at least one legal guardian; who are inadmissible and/or subject to removal from the United States. All individuals within an FAMU must be processed in a single (b) (7)(E) event. U.S. Citizens are not considered part of an FAMU for recordkeeping but may be entered into the (b) (7)(E) event for tracking custodial time and services provided while in CBP processing, but will have a class of admission and disposition code of (b) (7)(E) at the conclusion of the case.

Unaccompanied Alien Child (UAC)

An Unaccompanied Alien Child (UAC), as defined by 6 U.S.C. 279(g)(2), is a child who has no lawful immigration status in the United States; has not attained 18 years of age; and with respect to whom, in the United States, there is no parent or legal guardian or no parent or legal guardian is available to provide care and physical custody. At Ports of Entry, UACs either arrive unaccompanied or become unaccompanied as a result of CBP processing for criminal prosecution, a parent with a communicable disease, or when the parent has been determined to be unfit or a danger to the child. All UACs must be handled within the existing policies for the Trafficking Victims Protection Reauthorization Act (TVPRA) and *Flores v. Reno* Settlement Agreement.

For CBP secondary purposes and (b) (7)(E) record keeping, a child becomes unaccompanied (UAC) in CBP secondary when:

1. Adult member is not the parent or legal guardian of the child or the relationship cannot be established;
2. Parent/legal guardian has been accepted for felony criminal prosecution and will be separated from the child;
3. Prior criminal history of the parent/legal guardian for felonies or violent misdemeanors will result in the child being separated from parent/guardian;
4. Parent/legal guardian has a communicable disease; or
5. There is an immediate child safety concern and separation is warranted for welfare of the child.

In instances where a separation is warranted due to the numerated reasons above a CBP OFO senior manager (GS-14 or above) must be notified, approve the separation, and contact the Immigration and Customs Enforcement/Enforcement Removal Operations (ICE/ERO) local juvenile coordinator. Approval and notification cannot be delegated below an OFO senior manager (GS-14).

If at any point during CBP secondary processing a child becomes a UAC, CBP officers are responsible for making the appropriate updates in (b) (7)(E) regarding the status of the alien and documenting the I-213.

Minor/Juvenile "Held Separately" due to *Flores* or TVPRA reporting in (b) (7)(E)

Statute and court orders impose enhanced reporting requirements for all minors/juveniles that are held separately in CBP secondary regardless if the family member is a parent or guardian. The (b) (7)(E) dropdown labeled (b) (7)(E)

Processing Inadmissible Aliens for Notice to Appear (NTA)

(b) (7)(E)

(b) (7)(E)

Please ensure that these materials are disseminated to all ports of entry within your jurisdiction. Should you have any questions or require additional information, please contact (b) (6), (b) (7)(C) Director, Enforcement Programs Division (EPD) at (b) (6), (b) (7)(C) or (b) (6), (b) (7)(C), Director, Traveler Entry Programs at (b) (6), (b) (7)(C)

Attachments

1300 Pennsylvania Avenue NW
Washington, DC 20229

U.S. Customs and Border Protection

JAN 13 2017

MEMORANDUM FOR: Directors, Field Operations
Office of Field Operations

Director, Field Operations Academy
Office of Training and Development

FROM: Todd A. Hoffman (b) (6), (b) (7)(C)
Executive Director
Admissibility and Passenger Programs
Office of Field Operations

SUBJECT: Changes to Parole and Expedited Removal Policies Specific to Cuban Nationals

This memorandum serves to provide guidance on the announcement of changes to several Department of Homeland Security policies and regulations affecting Cuban nationals. This memorandum also supersedes in whole previous guidance regarding Cuban nationals, to include: April 19, 1999, *Eligibility for Permanent Residence Under the Cuban Adjustment Act Despite Having Arrived at a Place Other than a Designated Port-of-Entry (Immigration and Naturalization Service Memorandum)*; June 25, 2013, *Processing of Cubans at Ports of Entry*; October 23, 2013, *Further Simplify of Processing Cuba Citizens under the Cuban Refugee Adjustment Act of 1966(CRAA)*; and, May 27, 2015, *Additional Streamlining of Cuban Refugee Adjustment Act (CRAA) Processing*.

On January 12, 2017, The Secretary of Homeland Security rescinded the parole policy for arriving Cuban nationals, known as "wet-foot/dry-foot" and the Cuban Medical Professionals Parole Program. The Cuban Family Reunification Parole (CFRP) Program, administered by U.S. Citizenship and Immigration Services, remains intact and allows certain eligible residents to apply for an advanced parole for family members in Cuba. These policy changes are effective immediately. Additionally, a regulatory change to 8 CFR Section 235.3(b)(1)(i), Expedited Removal, has been made to rescind the expedited removal exception for citizens of Cuba.

Accordingly, a citizen of Cuba arriving in the United States, who is determined to be inadmissible under section 212(a)(6)(C) or 212(a)(7) of the Immigration and Nationality Act (INA), should be ordered removed from the United States in accordance with section 235(b)(1) of the INA. This, in effect, treats arriving Cuban nationals the same as all other arriving aliens. This change does not alter CBP's discretionary authority to permit an alien to withdraw his application for admission, approve discretionary 212(d)(4) waiver of documents (I-193) for individuals who are solely lacking a valid passport or visa for their purpose, or 212(d)(5) parole

authority where parole of the alien will serve a legitimate law enforcement purpose, medical emergency, or other urgent humanitarian need.

Cuban nationals awaiting a credible fear interview will be referred to Immigration and Customs Enforcement, Enforcement and Removal Operations (ERO) for detention pending credible fear determination.

Dual nationals with Cuban citizenship who are applying for admission under the Visa Waiver Program (VWP) will be treated as all VWP applicants, subject to removal under section 217 of the INA, to include a limited review of fear claims, as appropriate.

Please ensure that this memorandum and attached muster are disseminated to all ports of entry within your jurisdiction. If you have any questions or require additional information, please contact (b) (6), (b) (7)(C) (A) Director, Enforcement Programs Division, at (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) or (b) (6), (b) (7)(C) Enforcement Programs Division at (b) (6), (b) (7)(C)

1300 Pennsylvania Avenue NW
Washington, DC 20229

U.S. Customs and Border Protection

February 21, 2017

MEMORANDUM FOR: Directors, Field Operations

FROM: Todd A. Hoffman (b) (6), (b) (7)(C)
Executive Director
Admissibility and Passenger Programs
Office of Field Operations

SUBJECT: Executive Orders 13767 and 13768 and the Secretary's Implementation Directions of February 20, 2017

On February 20, 2017 Secretary Kelly issued the attached memoranda titled *Implementation of the President's Border Security and Immigration Enforcement Improvements Policies* and *Enforcement of the Immigration Laws to Serve the National Interest*. These provide implementation guidance to U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) regarding Executive Order 13767, entitled "Border Security and Immigration Enforcement Improvements," and Executive Order 13768, entitled "Enhancing Public Safety in the Interior of the United States," issued by the President on January 25, 2017. The Office of Field Operations (OFO) is a critical component in ensuring the safety and territorial integrity of the United States as well as the public safety of the American people. In order to fulfill the directions outlined in the attached memoranda, effective immediately, the Office of Field Operations will begin executing the following:

With the exception of the June 15, 2012, memorandum entitled "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children," (DACA) and the November 20, 2014 memorandum entitled "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children and With Respect to Certain Individuals Who Are the Parents of U.S. Citizens or Permanent Residents," (DACA and DAPA) all existing OFO conflicting directives, memoranda, or field guidance regarding the enforcement of U.S. immigration laws and priorities for removal are hereby rescinded. As the referenced 2012 and 2014 DACA and DAPA memoranda remain in effect, along with applicable court orders, the DHS and CBP posture with respect to DACA and DAPA is not affected by issuance of the Secretary's memoranda of February 20, 2017.

Moreover, in support of this effort, the Secretary has terminated the *Priority Enforcement Program* and reinstated the *Secure Communities Program*. Below you will find guidance on the operational impact of this guidance:

1. **Processing, Inspection, and Detention of Aliens Arriving at Ports Of Entry**

   Officers are reminded that all individuals who are not admissible should be processed consistent with CBP Directive (b) (7)(E) *The Exercise of Discretion* and, absent some form of discretion such as a waiver or parole, as discussed more fully below, placed in removal proceedings. Aliens should be placed in the appropriate form of removal proceedings consistent with the requirements of the INA, regulations, and current guidance. Officers are reminded that any alien who is subject to expedited removal who claims fear must be referred to an asylum officer for proper disposition.

   Arriving aliens should be referred to ICE/Enforcement and Removal Operations (ERO) for mandatory detention as applicable. In general, aliens should be placed in removal proceedings, ordered removed, refused entry under the Visa Waiver Program, or permitted to withdraw from the port of entry for immediate return. Absent an urgent circumstance such as a (b) (7)(E) from custody, aliens should not be released/paroled from the port of entry. If ICE/ERO does not authorize detention space, then the GS-14 Watch Commander or Port Director will coordinate with senior management and the appropriate ICE/ERO leadership, with elevation to HQ as may be warranted consistent with the Secretary's direction, to reach an appropriate resolution prior to releasing the alien, and annotate ERO requests in all case documentation.

2. **Priorities for Non-Arriving Aliens**

   OFO will take enforcement action against all aliens encountered in the course of their duties who enter illegally or who do not have lawful status to remain in the United States. This includes the arrest or apprehension of aliens whom OFO has reason to believe have entered or remain in the United States in violation of the immigration laws. It also includes the referral for criminal prosecution of any alien whom OFO has reason to believe has committed a criminal offense, and the initiation of removal proceedings against any alien who is subject to removal under any provision of the INA.

   Criminal aliens have demonstrated their disregard for the rule of law and, as such, they are a priority for removal. OFO should take particular care to prioritize the removal of aliens who:

   (1) have been charged with or convicted of any criminal offense;
   (2) have been charged with any criminal offense that has not been resolved;
   (3) have committed acts which constitute a chargeable criminal offense;
   (4) have engaged in fraud or willful misrepresentation of a material fact in connection with any official matter before a governmental agency;
   (5) have abused any program related to receipt of public benefits; or
   (6) pose a risk to public safety or national security, in the judgment of an immigration officer.

OFO should prioritize individuals within the above priorities for removal using any lawfully available removal grounds, regardless of whether a criminal ground applies pursuant to INA 212(a)(2). Field offices will coordinate with ICE/ERO and annotate such coordination in all case documentation.

3. Proper Use of Parole Authority Pursuant to Section 212(d)(5) of the INA

Officers are reminded to continue to adhere to CBP Directive (b) (7)(E) *The Exercise of Discretion*, with respect to aliens who have not yet been placed in removal proceedings. Parole should not be considered for individuals who pose a flight risk or who pose a risk of being added to the illegal population.

Individuals presenting advanced parole and significant public benefit parole documents should continue to be processed for parole absent exigent factors which weigh against parole. Parole under the Commonwealth of Northern Mariana Islands process and as a systematic basis for lightering vessels is no longer authorized. Each individual alien must be considered on a case by case basis.

Authorization of parole, unless otherwise proscribed by the Secretary's above-referenced memoranda, may only be delegated from Directors, Field Operations to Port Directors, Assistant Port Directors and Watch Commanders no lower than the GS-14 level. For further parole guidance see *CBP Directive* (b) (7)(E) *The Exercise of Discretion.*

4. Requests for Cancellation of Removal Proceedings or Other Forms of Discretion

Officers should continue to follow CBP Directive (b) (7)(E) with respect to discretionary actions at the time of processing arriving aliens. To the extent that field offices receive a request for the exercise of discretion on removal proceedings, including to agree to dismiss removal proceedings that have been instigated by OFO, those requests must be considered by the OFO Director, Field Operations and handled in a manner consistent with the Secretary's above-referenced memoranda.

5. Public Reporting of Border Apprehension Data

CBP officers are not respond to public or media inquiries regarding border apprehension data. Inquiries should be referred to the CBP Office of Public Affairs.

6. Proper Processing and Treatment of Children

CBP officers are reminded that all children are to be provided special protections to ensure that they are properly processed and receive the appropriate care consistent with CBP's obligation under the *Flores* Settlement Agreement and the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (codified in part at 8 U.S.C. § 1232) including all implementing policies and procedures. Upon apprehension or encounter, CBP must continue to promptly determine if a child meets the definition of an unaccompanied

alien child (UAC), 6 U.S.C. § 279, and, if so, the child must be transferred to the custody of the Office of Refugee Resettlement within the Department of Health and Human Services (HHS) as soon as practicable and within [redacted] hours, absent exceptional circumstances. *See* 8 U.S.C. § 1232(b)(3). Officers must complete (b) (7)(E) for all unaccompanied alien children. Officers are reminded that unaccompanied alien children from Mexico or Canada may be permitted to withdraw their application for admission and return to Mexico or Canada only after a screening is completed on the (b) (7)(E) and proper coordination with the consulate. Unaccompanied alien children who are permitted to withdraw may be repatriated at the nearest port of entry. All completed CBP (b) (7)(E) must be recorded in (b) (7)(E)

7. **Provisions of Section 235(b)(2)(C) of the INA to Return Arriving Aliens to Contiguous Countries**

   Aliens described in Section 235(b)(2)(A) of the INA, who are placed in removal proceedings under Section 240 of the INA, and who pose no risk of recidivism, may be returned to the territory of the foreign contiguous country (Mexico or Canada) from which they arrived pending the final resolution of such removal proceedings. OFO leadership, in coordination with CBP International Affairs, is actively developing the implementation process for this section. OFO should not expand any current use of removal under INA 235(b)(2)(C) until that direction has been developed and provided.

8. **Expanding Expedited Removal Pursuant to Section 235(b)(1)(A)(iii)(I) of the INA**

   The Secretary's memorandum contemplates the expansion of Expedited Removal on terms to be specified. This guidance may not be implemented until such time as a Federal Register notice is issued and further guidance is provided.

Please ensure that this memorandum is disseminated to all ports of entry within your jurisdiction. If you have any questions or require additional information, please contact (b) (6), (b) (7)(C) Supervisory Program Manager, Admissibility and Passenger Programs, at (b) (6), (b) (7)(C) or (b) (6), (b) (7)(C) (A) Director, Enforcement Programs Division, at (b) (6), (b) (7)(C)

1300 Pennsylvania Avenue NW
Washington, DC 20229

U.S. Customs and Border Protection

OCT 01 2018

MEMORANDUM FOR: Directors, Field Operations
Office of Field Operations

Director, Field Operations Academy
Office of Training and Development

FROM: Todd A. Hoffman (b) (6), (b) (7)(C)
Executive Director
Admissibility and Passenger Programs
Office of Field Operations

SUBJECT: Guidelines for processing two parent families - *Ms. L* litigation

The class-wide preliminary injunction granted in *Ms. L v. ICE* enjoined the U.S. government from detaining members of that class in DHS custody without their children subject to limited exceptions. The United States District Court for the Southern District of California describes a class member as, "All **adult parents** who enter the United States at or between designated ports of entry who have been, are or will be detained in immigration custody by DHS, and have a minor child who is or will be separated from them by DHS and detained in ORR custody, ORR foster care, or DHS custody absent a determination that the parent is unfit or presents a danger to the child."[1] This class covers both one-parent and two-parent families.

Accordingly, when CBP encounters an alien family unit (consisting of either one or two parents/legal guardians), CBP will not separate the child from either parent/legal guardian unless the specific criteria provided in CBP's June 27, 2018 *Interim Guidance on Preliminary Injunction in Ms. L v. ICE* are met. With the appropriate approvals, CBP officers can separate where a parent/legal guardian is being referred for a felony prosecution; the parent/legal guardian presents a danger to the child; the parent/legal guardian has a criminal conviction(s) for felonies or violent misdemeanors; the parent/legal guardian has a communicable disease; or CBP clearly establishes that the familial relationship is not bonafide. If a felony prosecution for a parent/legal guardian who was separated is declined, CBP officers must inform Enforcement Removal Operations (ERO) and Health and Human Services (HHS) so that the parent/legal guardian and the child can be reunified. Additionally, CBP will not separate two-parent families unless one or both adults meet the criteria to require separation from the child(ren).

[1] Note 5, *Ms. L.; et al., v U.S. Immigration and Customs Enforcement ("ICE"); et al.*, Case No.: 18cv0428 DMS (MDD) Order Granting Plaintiffs' Motion for Classwide Preliminary Injunction, June 26, 2018 accessed on September 25, 2018, at https://www.aclu.org/legal-document/ms-l-v-ice-order-granting-plaintiffs-motion-classwide-preliminary-injunction

The June 27, 2018 Guidance is attached, for reference.

Please ensure that this memorandum is disseminated to all ports of entry within your jurisdiction. Should you have any questions or require additional information, please contact (b) (6), (b) (7)(C) Director, Enforcement Programs Division (EPD) at (b) (6), (b) (7)(C)

Muster

Week of Muster: Immediate
Topic: Documenting Family Units and Properly Recording Separations
HQ POC/Office: Enforcement Program Division, (b) (7)(E) or (b) (7)(E)

- One of the many critical tasks performed every day by CBP officers is processing family units that arrive at our Ports of Entry.

- An Alien Family Unit is:
  - At least one alien child under the age of 18; and
  - At least one alien parent(s) or legal guardian(s);
  - Who all are inadmissible and/or subject to removal.

- All individuals within the Alien Family Unit will be processed in a single (b) (7)(E) event. All Family Unit Aliens (FMUAs) will be added separately to the event and CBP officers will select the Family Unit designation box in (b) (7)(E).

- Consistent with the EO and CBP National Standards on Transport, Escort, Detention, and Search (TEDS), CBP OFO will maintain family unity and custody together to the greatest extent permitted by law and operational feasibility.
  - The June 27, 2018 "Interim Guidance on Preliminary Injunction in *Ms. L v. ICE*, No. 18-428 (C.D. Cal. June 26, 2018)" memorandum provides specific guidance on the conditions under which CBP can perform a family unit separation.

- The (b) (7)(E) dropdown labeled (b) (7)(E) will be checked in any instance where the juvenile is separated from a family member or FAMU during CBP processing.

- Currently, the following separation reasons exist in (b) (7)(E):
  - (b) (7)(E)

- (b) (7)(E) are separation reasons that maintain family unity and do not create an Unaccompanied Alien Child (UAC).
  - (b) (7)(E) is to be used on all minors/juveniles that are separated in CBP secondary from their parent(s)/legal guardian(s) due to *Flores* or TVPRA (e.g., minor held in separate hold room of parent/legal guardian, minor held away from parent/legal guardian due to (b) (7)(E)
  - (b) (7)(E) causes a temporary separation that results in the family being reunited in OFO custody.

- (b) (7)(E) are separation reasons that will create a UAC due to the family not being held together in OFO custody and the separation is expected to continue forward in the process.
  - CBP policy dictates when a decision is made to separate an Alien Family Unit using any one of these reasons, a port manager at the GS-14 level or above must be notified and approve the separation. The decision to separate a family cannot be delegated below the GS-14 level.
  - The form I-213 (Record of Deportable/Inadmissible Alien) must be annotated with the reasons for the family separation as well as the approving GS-14 level manager. At minimum, the first paragraph of the I-213 should contain the biographical and A-file of the parent(s)/guardian(s) and children.
  - (b) (7)(E) based on their detention standards and the decision to separate has been made by ICE. This reason still requires the above standards.

<u>Separation reasons for other than Family Units:</u>

- (b) (7)(E)
- (b) (7)(E)

Weekly Muster

Week of Muster: Immediate

Topic: Applicants for admission lacking appropriate entry documents

HQ POC/Office: (b) (6), (b) (7)(C) Enforcement Programs Division

CBP Officers have a tremendous responsibility in protecting our nation's borders and in enforcing the existing laws of the United States. This muster serves to reiterate our responsibilities in regard to arriving persons to the United States.

- All persons arriving into the United States are inspected to determine their:
  - Citizenship;
  - Alienage; and,
  - Admissibility.
- Pursuant to 8 CFR 235.1, all persons must establish U.S. citizenship to the inspecting officer's satisfaction, or that he or she will be inspected as an alien.
- All aliens must establish to the satisfaction of the inspecting officer that the alien is not subject to removal under the immigration laws, Executive Orders, or Presidential Proclamations, and is entitled, under all of the applicable provisions of the immigration laws, to enter the United States.
- CBP officer who cannot determine to their satisfaction a person's eligibility to enter the United States upon primary inspection, must be referred for secondary inspection in the appropriate operating system (i.e. CSIS).
- Any person that is not admitted to the United States must have appropriate case processing in the (b) (7)(E) system, or subsequent processing systems.
- Under no circumstance will any person that has presented themselves for admission, or is discovered at the port of entry, be released or turned over to another agency without being admitted, paroled, or placed in removal proceedings.
- If an alien indicates in any manner or at any time during the inspection process, that he or she has a fear of persecution, that he or she has a fear of return to where they came, or that he or she has suffered or may suffer torture; you are required to refer the alien to an asylum officer for a credible fear determination, or to the Immigration Judge for limited review.
- All aliens whose credible fear claim is being considered by the U.S. Citizenship and Immigration Services Asylum Officer, or who are subject to the mandatory detention provisions of the Immigration and Nationality Act will be referred to Immigration and Customs Enforcement, Enforcement and Removal Operations (ERO) for detention.

1300 Pennsylvania Avenue, NW
Washington, DC 20229

U.S. Customs and Border Protection

Commissioner

June 27, 2018

MEMORANDUM FOR: Carla L. Provost
Chief
U.S. Border Patrol

Todd C. Owen
Executive Assistant Commissioner
Office of Field Operations (b) (6), (b) (7)(C)

FROM: Kevin K. McAleenan (b) (6), (b) (7)(C)
Commissioner

SUBJECT: Interim Guidance on Preliminary Injunction in *Ms. L. v. ICE*, No. 18-428 (C.D. Cal. June 26, 2018)

On June 26, 2018, the court granted plaintiffs' request for a nationwide preliminary injunction, enjoining the government from separating parents and legal guardians, who are detained in Department of Homeland Security (DHS) custody, from their children in certain circumstances. This interim guidance provides initial direction on compliance with that court order.

- Both at and between the ports of entry, adults who enter the United States illegally as part of a family unit (including adults who are members of two parent families) should not be referred for prosecution for 8 U.S.C. § 1325. However, ports of entry and stations may refer parents/legal guardians for prosecution for felonies.

- Parents/legal guardians may be separated from their child only for the following reasons:
    1. Referral of a parent/legal guardian for prosecution for a felony, as stated above.
    2. Parent/legal guardian presents a danger to the child.
    3. The parent/legal guardian has a criminal conviction(s) for violent misdemeanors or felonies.
        - Any questions about what constitutes a violent misdemeanor or felony should be referred to the local Office of Chief Counsel.
    4. The parent/legal guardian has a communicable disease.
        - Prior to separation, (b) (5), (b) (7)(E) should be contacted, and the communicable disease should be clearly documented in all appropriate systems of record.

- In cases in which the parent/legal guardian has an urgent medical need that is not a communicable disease, officers and agents should attempt to keep the family together in CBP custody, or parole both for medical care or (b) (5), (b) (7)(E)

- Fraudulent claims of parental or legal guardianship relationship should be processed under current policies and procedures, consistent with the Trafficking Victims Protection Reauthorization Act (TVPRA), and should be well-documented to support such claims.

- In any instance where individuals are or claim to be a parent/legal guardian and child, any separation must be approved by a GS-14 Watch Commander/Port Director or equivalent (OFO), or a Watch Commander (USBP).

- All other claims of familial relationships (*i.e.*, not parent/legal guardian) should be processed under current policies and procedures, consistent with the TVPRA.

- Nothing in this guidance changes existing policies and procedures related to processing and holding at the ports of entry and stations, including where individuals may be held in these facilities.

Any questions about how to comply with the court order should be raised through the appropriate chain of command for contact with (b) (5), (b) (7)(E) This guidance will be updated as needed and appropriate.

cc: All Executive Assistant Commissioners and Assistant Commissioners

1300 Pennsylvania Avenue NW
Washington, DC 20229

U.S. Customs and Border Protection

APR 2 7 2018

MEMORANDUM FOR: See Distribution (b) (6), (b) (7)(C)

FROM: Todd C. Owen
Executive Assistant Commissioner
Office of Field Operations

SUBJECT: Metering Guidance

When necessary or appropriate to facilitate orderly processing and maintain the security of the port and safe and sanitary conditions for the traveling public, DFOs may elect to meter the flow of travelers at the land border to take into account the port's processing capacity. Depending on port configuration and operating conditions, the DFO may establish and operate physical access controls at the borderline, including as close to the U.S.-Mexico border as operationally feasible. DFOs may not create a line specifically for asylum-seekers only, but could, for instance, create lines based on legitimate operational needs, such as lines for those with appropriate travel documents and those without such documents.

Ports should inform the waiting travelers that processing at the port is currently at capacity and CBP is permitting travelers to enter the port once there is sufficient space and resources to process them. At no point may an officer discourage a traveler from waiting to be processed, claiming fear of return, or seeking any other protection. Officers may not provide tickets or appointments or otherwise schedule any person for entry. Once a traveler is in the United States, he or she must be fully processed.

INAMI has, at times, elected to conduct exit controls at some locations in Mexico to limit the throughput of travelers into the United States. DFOs should be particularly aware of any INAMI controls that are preventing U.S. citizens, LPRs, or Mexican nationals (some of whom may intend to claim fear) from entering the United States, and should work with INAMI, as appropriate, to address such concerns.

Please ensure that this memorandum is disseminated to all ports of entry within your area of responsibility. Should you have any questions or require additional information, please contact Mr. Todd A. Hoffman, Executive Director, APP, at (b) (6), (b) (7)(C)

Distribution:
Director, Field Operations, El Paso
Director, Field Operations, Laredo
Director, Field Operations, San Diego
Director, Field Operations, Tucson